UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,131	03/31/2004	Ralf Ehret	13906-180001 / 2004P00204	9171

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EXAMINER
CARDENAS NAVIA, JAIME F

ART UNIT	PAPER NUMBER
3624	

NOTIFICATION DATE	DELIVERY MODE
05/29/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

	Application No.	Applicant(s)
Office Action Summary	10/815,131	EHRET ET AL.
	Examiner	Art Unit
	Jaime Cardenas-Navia	3624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>10 February 2009</u>.

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1,2,5-9,11-13,15 and 16</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1,2,5-9,11-13,15 and 16</u> is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Introduction

1.   This **FINAL** office action is in response to communications received on February 10,

2009. Claims 1, 8, 9, 11, and 13 have been amended. Claims 3, 4, 10, and 14 have been

previously cancelled. Claims 15 and 16 have been added. Claims 1, 2, 5-9, 11-13, 15, and 16

are currently pending.

Response to Amendment

2.   Applicant's amendments to the claims are **sufficient to overcome all the 35 U.S.C. §

112, second paragraph, rejections** as set forth in the previous office action.

3.   Applicant's amendments to the claims are **sufficient to overcome the 35 U.S.C. § 101

rejections** set forth in the previous office action.

Response to Arguments

4.   Applicant's arguments have been fully considered by the Examiner. In particular,

Applicant argues regarding independent claims 1 and 8 that (1) Virta does not teach or suggest

"the second scheduling request specifying that a portion of the requested amount of time is to be

scheduled in a specific time slot within the requested time period," and that (2) all dependent

claims are allowable as a result.

Regarding argument (1), Examiner respectfully disagrees. Virta teaches 'dynamic' scheduling, which enables users to 'soft' schedule an interval of time within a larger interval of time. As other obligations fill up the larger interval of time, the 'soft' schedule becomes a 'hard' schedule. Soft and hard scheduling are represented in fig. 4 of Virta, with soft scheduling represented by lower-case letters and hard scheduling represented by upper-case letters. Soft scheduling can be done through the use of fractions, percentages, or specific blocks of time within other blocks of time (par. 24). Additionally, Virta allows users to classify blocks of time as certain 'types'. Par. 28 of Virta discusses how jogging time can be scheduled to allow other users to join, whereas the free time of par. 22 is considered booked time. Another example would be setting a limit on how much of the day or week can be occupied by 'meetings' (par. 11).

In order to best illustrate how these features of Virta anticipate the claimed invention, Examiner will run through an example: Consider Jeff, who works 8 hours a day (9:00am - 5:00pm), who specifies that 50% of every Tuesday must be 'work undisturbed' time (similar to example schedule in Table at end of par. 24). This correlates to a first scheduling request for a requested amount of time (50% of Tuesday, 4 hours) sometime within a requested time period (Tuesday, 9:00am – 5:00pm). Next, because Jeff has an important business meeting from 1:00pm – 2:00pm, he schedules in one hour from 12:00pm – 1:00pm of 'work undisturbed' time. Now, Jeff's schedule for Tuesday shows that he will work undisturbed from 12:00 - 1:00pm, be in a meeting from 1:00pm – 2:00pm, and will work undisturbed for 3 more hours sometime during the remaining 6 hours of the day. The hard scheduling of one hour of work undisturbed time from 12:00pm – 1:00pm correlates to a second scheduling request that refines the first scheduling request (work undisturbed 50% of Tuesday, 4 hours) by specifying that a portion of

the requested amount of time (1 hour) is to be scheduled in a specific time slot (12:00pm –

1:00pm) within the requested time period (Tuesday, 9:00am – 5:00pm), the portion of the

requested amount of time (1 hour) being less than the requested amount of time (1 hour out of 4

hours), causing Jeff's availability during the specific time slot to be zero percent (booked).

Additionally, a remaining portion of the requested amount of time (3 hours work undisturbed) is

still scheduled within the requested time period (Tuesday, 9:00am – 5:00pm) except within the

specific time slot (12:00pm – 1:00pm), such that the availability of the resource (Jeff) for a

remaining portion (6 hours, 9:00am – 12:00pm, 2:00pm - 5:00pm) of the requested time period

(Tuesday, 9:00am – 5:00pm) to be greater than zero percent and less than one hundred percent (3

hours work undisturbed out of 6 hours in the day remaining, 50%). Thus, Virta clearly

anticipates the claimed invention.

   Regarding argument (2), Examiner respectfully disagrees as per the response to

argument (1) above.

                 Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed
> in the United States before the invention by the applicant for patent or (2) a patent granted on an application for
> patent by another filed in the United States before the invention by the applicant for patent, except that an
> international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this
> subsection of an application filed in the United States only if the international application designated the United
> States and was published under Article 21(2) of such treaty in the English language.

6. **Claims 1, 2, 5-9, 11-13, 15, and 16 are rejected** under 35 U.S.C. 102(e) as being

anticipated by Virta (US 2005/0065832 A1).

Regarding claim 1, Virta teaches a computer-implemented method comprising:

receiving at a computer system a first scheduling request for a resource, the first
scheduling request specifying that the resource is to be scheduled for a requested amount of time
sometime within a requested time period, the requested amount of time being less than a
maximum time amount that the resource is usable during the requested time period, wherein due
to the first scheduling request the resource has an availability for the requested time period less
than one hundred percent (Consider Jeff, who works 8 hours a day (9:00am -5:00pm), who
specifies that 50% of every Tuesday must be 'work undisturbed' time (similar to example
schedule in Table at end of par. 24). This correlates to a first scheduling request for a requested
amount of time (50% of Tuesday, 4 hours) sometime within a requested time period (Tuesday,
9:00am – 5:00pm));

receiving at the computer system a second scheduling request for the resource that refines
the first scheduling request, the second scheduling request specifying that a portion of the
requested amount of time is to be scheduled in a specific time slot within the requested time
period, the portion of the requested amount of time being less than the requested amount of time
(Next, because Jeff has an important business meeting from 1:00pm – 2:00pm, he schedules in
one hour from 12:00pm – 1:00pm of 'work undisturbed' time. Now, Jeff's schedule for Tuesday
shows that he will work undisturbed from 12:00 - 1:00pm, be in a meeting from 1:00pm –
2:00pm, and will work undisturbed for 3 more hours sometime during the remaining 6 hours of
the day. The hard scheduling of one hour of work undisturbed time from 12:00pm – 1:00pm
correlates to a second scheduling request that refines the first scheduling request (work
undisturbed 50% of Tuesday, 4 hours) by specifying that a portion of the requested amount of

time (1 hour) is to be scheduled in a specific time slot (12:00pm – 1:00pm) within the requested

time period (Tuesday, 9:00am – 5:00pm), the portion of the requested amount of time (1 hour)

being less than the requested amount of time (1 hour out of 4 hours), causing Jeff's availability

during the specific time slot to be zero percent (booked));

 scheduling by the computer system in an electronic schedule the portion of the requested

amount of time in the specific time slot, wherein scheduling the portion of the requested amount

of time causes the availability of the resource for the specific time slot to be zero percent (The

hard scheduling of one hour of work undisturbed time from 12:00pm – 1:00pm correlates to a

second scheduling request that refines the first scheduling request (work undisturbed 50% of

Tuesday, 4 hours) by specifying that a portion of the requested amount of time (1 hour) is to be

scheduled in a specific time slot (12:00pm – 1:00pm) within the requested time period (Tuesday,

9:00am – 5:00pm), the portion of the requested amount of time (1 hour) being less than the

requested amount of time (1 hour out of 4 hours), causing Jeff's availability during the specific

time slot to be zero percent (booked)); and

 scheduling by the computer system in the electronic schedule a remaining portion of the

requested amount of time within the requested time period except within the specific time slot,

wherein scheduling the remaining portion of the requested amount of time causes the availability

of the resource for a remaining portion of the requested time period to be greater than zero

percent and less than one hundred percent (Additionally, a remaining portion of the requested

amount of time (3 hours work undisturbed) is still scheduled within the requested time period

(Tuesday, 9:00am – 5:00pm) except within the specific time slot (12:00pm – 1:00pm), such that

the availability of the resource (Jeff) for a remaining portion (6 hours, 9:00am – 12:00pm,

2:00pm - 5:00pm) of the requested time period (Tuesday, 9:00am – 5:00pm) to be greater than
zero percent and less than one hundred percent (3 hours work undisturbed out of 6 hours in the
day remaining, 50%)).

Regarding claim 2, Virta teaches wherein the resource is a person that provides a service
(par. 24, service is working), a machine, a tool, <u>or</u> a workstation.

Regarding claim 5, Virta teaches wherein the first scheduling request specifies that the
resource is to be scheduled for a predetermined number of hours within the requested time period
that includes a specific date range (par. 23, example of "jog – 90 minutes, 8AM to 5PM Monday
and Tuesday").

Regarding claim 6, Virta teaches wherein the second scheduling request refines
the first scheduling request by requesting that a portion of the predetermined number of hours
from the first scheduling request is to be scheduled for the specific time slot on a specific date
within the date range (par. 22, scheduling requests for other meeting and/or required working
undisturbed at certain times to meet deadlines, etc., are second scheduling request that specify a
portion of the requested amount of time to be in a specific time slot).

Regarding claim 7, Virta teaches wherein scheduling in the electronic schedule
is done to determine a utilization of the resource (par. 15, 22).

Regarding claim 8, it is rejected using the same art and rationale used above for
rejecting claim 1. This is because claim 8 claims a computer program product for performing the
method of claim 1.

Regarding claim 9, Virta teaches wherein the executable instructions, when executed,
further cause a resource planning application to receive at the computer system all time slots in

which the resource is usable within the requested time period (par. 12, 14, sharing, comparing, and superimposing calendars, par. 25, 26, checking a user's availability using shared calendars).

Regarding claim 11, Virta teaches receiving at the computer system all time slots in which the resource is usable within the requested time period according to resource's availability information stored in a database (par. 12, 14, sharing, comparing, and superimposing calendars, par. 25, 26, checking a user's availability using shared calendars, fig. 2, database).

Regarding claim 12, Virta teaches wherein the resource's availability information is maintained as a set of time intervals in the database (par. 15, interval storage unit, fig. 4, 5, hour time intervals).

Regarding claim 13, Virta teaches referring by the computer system to resource's availability information to verify that the availability of the resource for the specific time slot on the specific date is sufficient for the second scheduling request (par. 31, 32, bookings for certain privileged people can be automatic).

Regarding claim 15, Virta teaches wherein the first scheduling request and the second scheduling request are received from a same source (Consider Jeff, who works 8 hours a day (9:00am -5:00pm), who specifies that 50% of every Tuesday must be 'work undisturbed' time (similar to example schedule in Table at end of par. 24). This correlates to a first scheduling request for a requested amount of time (50% of Tuesday, 4 hours) sometime within a requested time period (Tuesday, 9:00am – 5:00pm). Next, because Jeff has an important business meeting from 1:00pm – 2:00pm, he schedules in one hour from 12:00pm – 1:00pm of 'work undisturbed' time).

Regarding claim 16, Virta teaches wherein the first scheduling request and the second scheduling request are received from a same source (Consider Jeff, who works 8 hours a day (9:00am -5:00pm), who specifies that 50% of every Tuesday must be 'work undisturbed' time (similar to example schedule in Table at end of par. 24). This correlates to a first scheduling request for a requested amount of time (50% of Tuesday, 4 hours) sometime within a requested time period (Tuesday, 9:00am – 5:00pm). Next, because Jeff has an important business meeting from 1:00pm – 2:00pm, he schedules in one hour from 12:00pm – 1:00pm of 'work undisturbed' time).

Conclusion

7.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Jaime Cardenas-Navia whose telephone number is (571)270-

1525. The examiner can normally be reached on Mon-Fri, 10:30AM - 7:00PM EST.

        If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Bradley Bayat can be reached on (571) 272-6704. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

        Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

                                                        May 25, 2009

/J. C./
Examiner, Art Unit 3624

/Bradley B Bayat/
Supervisory Patent Examiner, Art Unit 3624